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National Assembly on June 2, 1952, concerning the "Organization of the Judicature." Article 1 of the Law emphatically states that the function of the judiciary is the defense of the socio-economic structure of the state and of the rights and interests of state institutions and organizations. Furthermore, it is emphasized that the aim of the judiciary is the "education" of the citizens "in the spirit of devotion to the fatherland and in the spirit of the construction of socialism" (Article 2).

The people's assessors perform in practice a much greater function in judicial proceedings than those specified by the Constitution. The Minister of Justice is authorized to detail them from one court to the other whenever circumstances require. Thus, there are actually special teams of "people's judges" which the Ministry of Justice can use in accordance with the political interests of the Party.

Article 9 of Law No. 5 of 1952 also authorizes the courts to hear cases outside their seats if this is required "to fulfil the educational purpose of justice." Furthermore, hierarchically superior courts may take away from subordinate courts any case "in order to hear it themselves or have it heard by another court."

The required impartiality of judges is furthermore impaired by limitations imposed by the electoral laws on the right to participate in the election of people's judges. The privilege is restricted to the "democratic" elements only (Article 13, Paragraph 7, of Law No. 5). This is coupled with the provisions confining the nomination of candidates to the United Workers' (Communist) Party or to its affiliated mass organizations (Article 13, Paragraph 1).

In discussing the new role of justice and law, Vasilescu-Alba, a jurist of the Rumanian People's Republic, asserted that "all legal rules, being the expression of the will of the working class, must be understood and interpreted in the light of the class struggle." Justice is thus "an executive organ of the will of the working class." Positive law, when in disagreement with this principle, must make room for the "legal conscience of the proletariat."[3]

The fundamental rights and duties of citizens are enumerated in a special chapter. The primacy of social rights over individual rights is, as in the USSR, both functional and political.[4] Most of the rights and freedoms stipulated by the Constitution are either programmatic, circumscribed by escape clauses, or outright illusory. Thus, for instance, the provision relating to freedom of the press, speech, and assembly, as stated by Article 85, (a word-by-word replica of Article 125 of the Soviet Constitution of 1936), emphatically denies

[3] "Statul Polițienesc" Cronica Românească, October 1, 1950, p. 25.

[4] Professor Boris Mirkine-Guetzevitch, while recognizing the dictatorial character of all the constitutions in the Soviet sphere, makes nevertheless a distinction between the declarations of rights of the Soviet constitutions and those of the satellite constitutions. According to Professor Mirkine, whereas the declarations of the People's Republics establish the "functional" primacy of social rights over individual rights, those of the Soviet republics establish "political" primacy. See Boris Mirkine-Guetzevitch, Les Constitutions Européennes, 2 vol. Paris, 1951.

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641 the right and freedom of citizens to write, publish, or otherwise express their views, except such as are in accord with the given party-line. For the exercise of this right, the state places at the disposal of the "working classes and their organizations, printing presses, stocks of paper, public buildings, the streets (and) communication facilities." Freedom of speech is furthermore restricted by the provisions of the Law for the Defense of Peace, enacted on December 15, 1950. Article 2 of this Law specifically prohibits "propaganda inciting to war, the spreading of tendentious or invented news, of a nature to serve the warmongers, etc. . . ."

[204] Freedom of the press and publication is likewise nonexistent. Two directorates attached to the Council of Ministers are charged with complete supervision over the press, publications of any sort, and their distribution. The Directorate of the Press and Printed Matter, established on May 23, 1949 (Decree No. 218) "authorizes the publication of all printed matter;" the General Directorate of Publishing, Graphic Arts Industry, Book and Press Distribution, established on March 16, 1950 (decree No. 62), "controls the output of publishing houses from the point of view of contents and form." The Communist press is furthermore restricted to the services of the AGERPRESS (the Rumanian Press Agency) which by virtue of Decree No. 217 of May 23, 1949, is the only agency permitted to receive and transmit news. Aside from the nationalization of all printing presses, a governmental decision (Decision No. 69 of the Ministry of the Interior, July 1, 1950) requires the registration with the militia of all hand printing presses, duplicating machines, and "materials needed for the reproduction of printed matter," owned by individuals or associations.

[515] Freedom of assembly is similarly controlled. Excepting the Communist-controlled mass organizations, viz., public organizations, co-operative societies, youth and women's organizations, etc. (Article 86), no independent organization or association is permitted. Anyone attempting to organize or participate in such an organization is liable to prosecution by virtue of Article 86 of the Constitution, prohibiting the organization of or the participation in associations of a "fascist" or "anti-democratic" character. Such participation would furthermore entail "plotting against the internal and external security" of the state, an offense punishable by death under Article 1 of the Law for Punishing Certain Crimes Which Endanger the Security of the State of January 19, 1949.

611 461 The right to work is guaranteed by the "socialist transformation" of the economy and the "elimination of the possibility of economic crises and the abolition of unemployment" (Article 77). The right to rest and leisure is ensured by the reduction of the working hours to eight in factories and offices and to less in the more arduous trades.[5] This right is supplemented by

[5] The constitutional provisions relating to the reduction of working hours are puzzling in the light of the introduction of the piece-work system and norms of production (Labor Code of May 20, 1950) and the adoption of the Soviet model of "Stachanovism" and "voluntary labor."

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the establishment of rest-homes, sanatoria, and cultural establishments (Article 78). The right to maintenance in old age and in case of sickness or disability is ensured by the development of social insurance and free medical service (Article 79). The right to education is ensured by universal, compulsory, and free elementary education and by the system of state scholarships awarded to deserving students (Article 80).[6] Equality of rights in all spheres of economic, political, and cultural activity is guaranteed to all citizens irrespective of their nationality, sex, or race. Any transgression of these provisions by the manifestation of race-hatred, chauvinism, or discrimination is punishable by law (Article 81).[7]

Some distinction was made at the beginning with regard to the German ethnic group, which had actively collaborated with Nazi Germany. The original decision to expel the Germans from the country, however, was officially changed in December, 1948, when the Rumanian Communist Party decided to replace the denunciation of the German minority as a whole and encourage instead the class struggle within its ranks. The resolution of the Party maintained that the "struggle against their own bourgeoisie . . . (would) open a new perspective to the German working population of Rumania, working alongside the Rumanian people and other nationalities."[8]

Whereas at the beginning Zionism enjoyed a tremendous popularity and even received latent, if not active, support from the Communist-dominated government during the Jewish-Anglo-Arab disturbances in Palestine, the above quoted resolution on the national question also declared:

"Zionism of any color is a political nationalist and reactionary movement of the Jewish bourgeoisie, which tries to isolate the Jewish working people from the other peoples and to hinder them in their struggle against capitalism in the ranks of the anti-imperialist camp."

Notwithstanding the legal and constitutional provisions relating to the defense of the rights of nationalities and minorities,[9] the official policies of the Communist Party in regard to these questions have been based on the tenets of Leninism-Stalinism. While the development of national cultures and the use of national languages in all the fields of cultural and political endeavors are encouraged, the guiding principle is that of "socialism." "Na-

[6] The system of education underwent drastic changes. See "The Perversion of Education in Rumania" published by the Rumanian National Committee, Washington, D.C., July, 1950.

[7] See Law No. 86 of February 7, 1945 (Statute for Nationalities) and Law No. 630 of August 6, 1945, in the Yearbook on Human Rights for 1946, United Nations, (1947) 248–49 and 249–51, respectively.

[8] La Roumanie Nouvelle, Bucharest, No. 14, December 30, 1948.

[9] As an apparent concession to the Hungarian minority in Rumania, the Constitution also provides for the establishment of a Magyar Autonomous Region (Articles 19–21) in the territory inhabited by compact Magyar and Székely population, including the districts of Ciuc, Gheorgheni, Odorhei, Reghin, Sangiorgiu de Padure, Sft. Gheorghe, Targu-Mures, Targu-Secuesc and Toplita.

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641 563 tional culture" from the Leninist-Stalinist point of view is a culture *national only in form* and *socialist in content* and aims at the consolidation of the dictatorship of the proletariat.[10]

In fact, this principle has been legally formulated in Paragraph (j) of Article 17 of the new Rumanian Constitution according to which the state

> "ensures the development of the culture of the Rumanian people and of the culture of the national minorities, *socialist in content, national in form.*" (emphasis supplied)

641 [562] Women are given equal rights with men in all spheres of cultural, economic, or political activities. The institution of marriage and the family is protected by the state, which grants aid to mothers of large families and unmarried mothers (Article 83). Freedom of conscience and religious worship is guaranteed. The school is separated from the church; except for the training of the personnel of the religious denominations, no congregation may open or maintain [798] institutions of general study (Article 84). The constitutional provisions relating to freedom of conscience are rendered practically meaningless by virtue of Decree No. 177, Establishing General Regulations for Religious Cults, of August 3, 1948, and the Law on the Organization of the Ministry of Cults, of February 5, 1949. According to the Decree, all religious cults must be recognized by the Presidium, which must approve the statute of organization of the respective cult. The Ministry of Cults, the organ through which the Party exercises its control over religious denominations, is empowered to "supervise and control all religious cults and their institutions, and the special religious education for the training of all personnel of religious cults, the property and funds of any nature belonging to cults, as well as to confirm (or deny) the appointment of the entire permanent and temporary staff of religious cults, and to act as intermediary for relations and exchanges of information between cults in the country and abroad" (Article 1 of the Law for the Organization of the Ministry of Cults). The implementation of these provisions has resulted in the unequivocal subserviency of the cults to the regime.[11]

641 The inviolability of the home, the privacy of correspondence (Article 88) and of the citizen is guaranteed. No person may be placed under arrest without the decision of a court or "of the procurator" (Article 87). This assurance of the inviolability of the person is subject to the exclusive privilege of the Party or of its affiliated organizations to nominate candidates in the election of judges and the arresting power of the Prosecutor General, which is independent of the courts. Since there can be no writ of habeas corpus against the Procurator General—always a loyal servant of the Party—it evidently follows that extrajudicial arrest of any individual is within his discretion (see Article 8 of Law No. 6 of June 2, 1952).

Hand-in-hand with the rights enumerated above, the Constitution specifies

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[10] J. Stalin, Marxism and the National Question (1942) 207.

[11] For details see "Persecution of Religion in Rumania" published by the Rumanian National Committee, Washington, D. C., 1949.

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the following duties of the citizens. It is the duty of every citizen to: abide by the constitution and the laws in force; safeguard and develop public socialist property; maintain labor discipline; actively contribute to the strengthening of the power of people's democracy; further the economic and cultural advancement of the country (Article 90); serve in the Armed Forces (Article 91); and defend the fatherland (Article 92).

The only international connotation in the Constitution is the provision of a "right of asylum" accorded to "foreign citizens persecuted for defending the interests of the working people" (Article 89).

Whatever the merits or shortcomings of this Constitution, it should be borne in mind that a "people's democracy," like the Soviet state, is not a legal state in the true sense of the word. Such constitutions are not truly fundamental laws, in the sense that they do not define or limit the powers of the state and protect rights of the citizens against arbitrary governmental actions. They are not based upon a compromise embodied in rules of law to which all citizens, irrespective of their ideological conceptions or political affiliations, are equally subject. In Marxian terminology, the Soviet state (like that of the People's Republics) is a "class-state," a class dictatorship. The misleading fallacy, however, lies—as the Soviet experience of the last 36 years and the satellite experiences of the last few years show—in the complete identification of the working class with the Communist Party and of the Party itself with its hierarchy.

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RUMANIA

668 Bessarabians are popularly called) forming the most back-
177 ward section of the Rumanian people are mentally incapable of appreciating at their true value all the qualities which the Rumanian administration exhibits in its conduct towards populations whose goodwill it has set out to win. For the organs of the Rumanian State are inspired by a high purpose, that of converting these Moldovans of Bessarabia into loyal Rumanians, by inculcating in them a consciousness of the collective national will. When they shall finally see eye to eye with the various cultural missionaries which Bucarest has so far dispatched for their edification, then at last will loyalty and love follow, for loyalty after all is but the consciousness of oneness, and it is this consciousness of oneness that the Bucarest "Kulturträger" are attempting to impress on the Bessarabians.

668 These altruistic efforts, however, seem unavailing, for in January, 1932, a pan-Bessarabian congress of all parties and creeds was held at Kichineff, and delegates resolved to create a united Bessarabian front so as to impose on the Government which had done nothing for this province since its union with Rumania, the taking of certain measures designed to ameliorate the situation. M. Batsaria, a veteran Rumanian journalist, commenting on this congress in the "Adeverul" stated that a member of the cabinet had confided to him that this discontent was not peculiar to Bessarabia, but existed in all the new provinces. An atmosphere, which was in no way favourable to the realization of a complete spiritual unity among the inhabitants of Great Rumania had been created. And so long as the legitimate rights of all were not respected, and their just grievances remained unredressed, so long would unity be unattained.

The Jews.

[162] The Jewish minority numbers some 800,000 souls (accord-
563 ing to Winckler's racial statistics, 778,094) who are mainly
641 concentrated in the urban districts of Bessarabia, Moldavia, Bucovina, and the province of Maramureş. As petty trading, commerce and, to a large extent, banking is in their hands, all the more important towns have a numerous Jewish element in their population. The manifest disinclination of the Rumanians for commerce has permitted the

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Jewish element to gain a place of importance in the life of the community, which has unfortunately provoked the resentment and jealousy of their Christian co-nationals and created a Jewish problem in Rumania. To counteract their economic influence they were refused political rights by the Rumanian Constitution of 1866, and though the Congress of Berlin obtained the abolition of this law, such obstacles were placed in the way of Jews wishing to acquire naturalization that only a few hundreds succeeded in obtaining this privilege by 1914. According to the Treaty for the Protection of Minorities which Rumania finally signed, the Rumanian nationality is conferred on all Jews in Rumania. The Jews have not followed the example of the Magyars and Germans, who have created political parties of their own, yet prejudice against them is pretty strong and has led to the formation of political groups which are purely anti-Semitic. The supporters of anti-Semitism are mainly recruited among students, and the universities have often been the scenes of ruthless and barbarous acts of violence. The leaders of the anti-Semitic leagues are unscrupulous individuals, who by pandering to the lowest instincts of the mob see a way to secure personal advantages for themselves. Thus the chief henchman of Cuza, the anti-Semitic leader, an individual named Codreanu, gained notoriety by shooting the Police Prefect of Jassi while the latter was doing his duty in suppressing a pogrom that had been organized in the capital of Moldavia.

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The Jewish problem is purely economic, and this is the reason why student circles are so anxious to impose the " numerus clausus " in the Rumanian universities. They wish to eliminate potential rivals in the liberal professions as far as they possibly can. In many of these the Jewish element has certainly distinguished itself, especially in law and in medicine. Rumanian youth feels that the prominent position Jews hold in society is a serious obstacle to its advancement, and the methods adopted to eliminate this hindrance are certainly not always commendable. It should be added, however, that where Jews do not exist other races occupy their place, so that it is always the non-Rumanian elements which fill the more lucrative posts in the urban

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INNER GLIMPSES OF THE ADMINISTRATION.

It is with no desire to cast discredit on the Rumanians that the following political happenings related in this chapter are being published, but with the intent of giving, judging from the past, a rough idea of the mentality of the ruling classes and what may be expected of them in the future. It would be utterly unfair if we were to judge them after our western conceptions and by accepting our standard of morality as a criterion. "The moral standards of a people are evolved in correspondence with the practical needs of that people" wrote our distinguished philosopher, the late L. T. Hobhouse, in his remarkable treatise "Mind in Evolution," and the auspices under which Rumania evolved were peculiarly unpropitious if we are to judge from Dr. Seton Watson's weighty pronouncement that" the Phanariot régime reduced the national and religious life of the peninsula to utter stagnation and has left its corroding mark upon the politics of every Balkan nation." ("Europe in the Melting-pot.") And the Phanariot influence was more deep rooted and lasting in Rumania than in any other country in South-Eastern Europe. In all these countries except Rumania it was a transient phenomenon, it was a virus which thought it had inculcated its poison deep within the tissues of the native plant, yet nevertheless, owing to the inherent qualities of the latter, the scourge was tenaciously fought and was being slowly eliminated. But in Rumania, unfortunately, the bane went much deeper, for the Phanariots and their retainers had come in their thousands and settled in the country for good, and their numerous descendants form to-day the *élite* of the ruling classes of the old kingdom. The basic conception of the State held by the Phanariot was that it was the best and shortest avenue to personal advancement and enrichment. He applied and lived by the maxim of his Turkish patron of yore:

"Dovleten mali denŭz
Yemeyen onou domŭz,"

which may be translated by "the goods of the State are as vast as the sea, and he who does not help himself to them is no better than a pig."

corner of Europe, has been allowed to become the prey of odious vampires, who have sucked everything dry and have even robbed us of our hope of possible salvation. Nevertheless, Providence hath granted the return of our long expected King," etc. 642 668

One is justified in expressing doubts as to the expediency of applying fascist methods in Rumania as one fails to perceive the dominating personality who might control and direct such a policy; one may also ask, where are the indispensable coadjutors to be recruited from? It can hardly be said of King Carol that he has been able to live down his unfortunate reputation so as to assume with some hope of success such a formidable task. As for his likely collaborators who, presumedly, are to be selected from among the Rumanian ruling circles, one need only peruse the posthumous memoirs of the late Rumanian Prime Minister, Marghiloman, in order to be convinced of the utter abjectness of this class. M. Pamfil Seicaru, who may be likened to the late Henry Labouchere of "Truth" for his fearless criticisms, when writing on the boundless vista of putridity disclosed by this compilation, stigmatized in the "Cuvantul" of July 17th, 1927, in the following scathing terms the leading circles of his country:—"These memoirs form a vast archive concerning turpitudes of a whole ruling class . . . the majority of this class which remained in the territory occupied by the enemy openly practised with him . . . while those in Moldavia offered a spectacle of the most trying moral bankruptcy. A parliament of speculating fugitives revealing a criminal insensibility in face of the tragedy of a whole country; one cannot imagine a more sinister divorce between a ruling class and a nation in arms. . . . And who amongst them can indict the others for their subversion of the national ideal? Can the aristocratic fugitive fragment which took refuge in Moldavia or Russia claim to represent a higher standard of morality than the section which remained in the occupied territory meekly to serve the enemy? They both form two aspects of the same filth." 641 565 661

As recently as May 6th, 1932, Octavian Goga, an ex-Minister and presently in intimate relation with the King, who publicly brags of being the successor designate of Prof. 565 641

565 641 Iorga, spoke as follows at Bucau: "The upper class is totally devoid of an ideal, and of a moral mainspring, while the masses are not only tired and exhausted but impregnated by sullen dissatisfaction. The whole body of the State is in a condition of molecular dissolution." And this worthy, who according to the "Dreptatea" of May 19th, 1932, "compensated himself by seizing thirteen million lei on the evacuation of his tenure of the Ministry of the Interior in 1927," a feat which won for him at the time the appropriate name of "Vacuum cleaner," had the effrontery to conclude his oration with an appeal to the youth of the country to rally round him:—"We must change the moral structure of the country, but such a change cannot proceed from the old. We must appeal to the young intellectuals to join in the building of a new structure around us. Their place is not in the building which is tumbling down, but in those which are being built up. Come on, we are sure to win." If, indeed, Carol II has set his heart on saving his country by the help of such sorry individuals, we may well pity Rumania.

PRESENT-DAY PROBLEMS: THE ELECTORAL LAW

646 666 The present electoral law, which confers a premium on the party which secures 40% of the total votes cast at an election and enables it to secure 70% of the mandates in the Chamber, was due to the initiative of the Bratianus who in 1926 aimed at installing General Averescu in office. They themselves had no need of this law, as at the elections which took place in 1927, 62% of the electors voted for them. It is a law that is favourable to groups devoid of popular support, as they can very easily, when in control of the administrative machinery, so manipulate the elections as to secure the requisite 40% which would confer on them a majority of 70% in the Chamber. So that as long as this law is not repealed there is little chance of a really popular party being elected to office, except if it be entrusted beforehand by the Crown with a mandate to call a general election.

It forms actually the great obstacle to a return to constitutional government, for, thanks to it, any coterie appointed to

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565 471 423 provide their holders with a fair income, and a considerable part of the rural population remained landless. Worst of all, those peasants who did obtain land were given neither implements nor sufficient financial help which could have enabled them to make a decent living. Neither of the measures which are essential to the success of peasant proprietorship —State aid in money, machinery and technical advice; or the creation of large-scale co-operative societies and banks—were carried out. Undoubtedly [641] the extension of the franchise in 1923 to all men of 21 and the land reforms greatly strengthened the position of the peasantry in the State. But, actually, it was widespread discontent with the working of the agrarian reform that stimulated the organization of the National Peasant Party.

423 241 CROPS. The great devastation of Rumania during the First World War and the effects of the land reform resulted in a great reduction of the country's agricultural production during the immediate post- [439] war period.[1] Whereas the Old Kingdom alone in 1913 had grown 2,200,000 tons of wheat, of which 1,150,000 tons were exported, and over 3,100,000 tons of maize, of which 1,000,000 tons were exported, the production figures for Greater Rumania in 1921 were for wheat 2,140,000 tons, and for maize 2,810,000 tons. This great decrease is all the more striking in view of the fact that the amount of arable

[1] In Transylvania and the neighbouring territories, taken from Hungary, some of the great *latifundias* had been well and scientifically worked with modern agricultural machinery. There were some conscientious landowners among the Magyar nobility as well as absentee landlords who neglected their peasantry.

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especially hard hit by this rampant corruption. The moneyed classes, on the other hand, were well satisfied with this state of affairs which guaranteed the continuance of their rule.

The position of the minorities was unenviable. In theory all non-Rumanians had the same rights and duties as the Rumanians. In practice, however, things were very different. The official language was Rumanian and anybody not able to speak Rumanian was handicapped from the beginning when dealing with the authorities. It was very difficult for members of a minority to obtain schooling in their native language, for although there were some Hungarian and German schools they had to be financed by the respective communities and the fees to be paid were high. A public career for a member of a minority was very rare indeed and non-Rumanians had always to expect unfavourable treatment at the hands of the authorities. The Jews, many of whom were denied Rumanian citizenship and had to pay from time to time for the right to live in the country, were worse off than the rest. Often in addition to being persecuted for their origin they could be victimized for having a Hungarian name and speaking German as their native language.

The mass of the Rumanians did not gain by this discrimination ostensibly made in their favour. At best the half-educated sons of peasants could secure some minor position in the State machinery.

The economic life of the country was dominated by all-powerful monopolies. The oil and heavy industries were in the hands of a few foreign and Rumanian shareholders and the enormous profits were divided between a few industrialists, ministers